

### **REMARKS**

Claims 1-39 remain pending in the application.

The Applicants respectfully request the Examiner to reconsider earlier rejections in light of the following remarks. No new issues are raised nor is further search required as a result of the changes made herein. Entry of the Amendment is respectfully requested.

#### **Claims 1-39 over an Aether Confidential Reference**

In the Office Action, claims 1-39 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Aether Technologies confidential copy of “Enterprise Data Wireless Center” (“Aether Confidential Reference”). The Applicants respectfully traverse the rejection.

The Examiner cites the Aether Confidential Reference as being a single reference. However, there are in fact two documents within the Examiner’s Aether Confidential Reference. The first document of the Examiner’s Aether Confidential Reference is Enterprise Data Wireless Center, A Complete Methodology to Enable Your Wireless Data Solution, pages 1-15, dated February 1999. The second document of the Examiner Aether Confidential Reference is AIM.net Architecture Version 1.1, pages 1-75, dated April 12, 1999. As the Examiner can see, these two document were produced within different months.

The Examiner rejection is based on the AIM.net Architecture Version 1.1 document. As the Examiner requested, the Applicants are submitting herein an Affidavit supporting the Applicants’ previous contention that the AIM.net Architecture Version 1.1 document was **not** intended for distribution outside of Aether (as supported by the statement on page 6 of the document itself).

Thus, the AIM.net Architecture Version 1.1 document was not “published” for public disclosure and does not qualify as prior art under 35 U.S.C. § 102(b). Because this rejection is not based on prior art, it cannot properly stand. The Applicants respectfully request the rejection of claims 1-39 be withdrawn.

**Conclusion**

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'William H. Bollman', written over a horizontal line.

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